



## Senate

General Assembly

**File No. 378**

February Session, 2006

Substitute Senate Bill No. 402

*Senate, April 5, 2006*

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING CERTAIN SERVICE INTERRUPTIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-57f of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2006*):

3 (a) As used in this section: (1) "Required employer" means any  
4 provider of food, building, property or equipment services or  
5 maintenance listed in this subdivision whose rate of reimbursement or  
6 compensation is determined by contract or agreement with the state or  
7 any state agent: (A) Building, property or equipment service  
8 companies; (B) management companies providing property  
9 management services; and (C) companies providing food preparation  
10 or service, or both; (2) "state agent" means any state official, state  
11 employee or other person authorized to enter into a contract or  
12 agreement on behalf of the state; (3) "person" means one or more  
13 individuals, partnerships, associations, corporations, business trusts,  
14 legal representatives or organized groups of persons; [and] (4)

15 "building, property or equipment service" means any janitorial,  
16 cleaning, maintenance or related service; (5) "service interruption"  
17 means any interruption of goods or services provided by a required  
18 employer or a subcontractor that affects the employees engaged in the  
19 performance of work on the goods and services for which the state has  
20 contracted, except an interruption caused by a fire, flood or other act of  
21 God; and (6) "day" means a calendar day.

22 (b) On and after July 1, 2000, the wages paid on an hourly basis to  
23 any employee of a required employer in the provision of food,  
24 building, property or equipment services provided to the state  
25 pursuant to a contract or agreement with the state or any state agent,  
26 shall be at a rate not less than the standard rate determined by the  
27 Labor Commissioner pursuant to subsection (g) of this section.

28 (c) Any required employer or agent of such employer that violates  
29 subsection (b) of this section shall pay a civil penalty in an amount not  
30 less than two thousand five hundred dollars but not more than five  
31 thousand dollars for each offense. The contracting department of the  
32 state that has imposed such civil penalty on the required employer or  
33 agent of such employer shall, within two days after taking such action,  
34 notify the Labor Commissioner, in writing, of the name of the  
35 employer or agent involved, the violations involved and steps taken to  
36 collect the fine.

37 (d) The Labor Commissioner may make complaint to the proper  
38 prosecuting authorities for the violation of any provision of subsection  
39 (b) of this section.

40 (e) For the purpose of predetermining the standard rate of covered  
41 wages on an hourly basis, the Labor Commissioner shall establish  
42 classifications for all hourly nonsupervisory employees based on the  
43 applicable occupation codes and titles set forth in the federal Register  
44 of Wage Determinations under the Service Contract Act of 1965, 41  
45 USC 351, et seq. The Labor Commissioner shall then determine the  
46 standard rate of wages for each classification of hourly nonsupervisory  
47 employees which shall be equivalent to the minimum hourly wages set

48 forth in the federal Register of Wage Determinations under the Service  
49 Contract Act, plus a thirty per cent surcharge to cover the cost of any  
50 health, welfare and retirement plans or, if no such plan is in effect  
51 between the employees and the employer, an amount equal to thirty  
52 per cent of the hourly wage which shall be paid directly to the  
53 employees.

54 (f) Required employers with employees covered by collective  
55 bargaining agreements which call for wages and benefits that are  
56 reasonably related to the standard rate shall not be economically  
57 disadvantaged in the bidding process, provided the collective  
58 bargaining agreement was arrived at through arms-length  
59 negotiations.

60 (g) The Labor Commissioner shall, in accordance with subsection (e)  
61 of this section, determine the standard rate of wages for each  
62 classification on an hourly basis where any covered services are to be  
63 provided, and the state agent empowered to let such contract shall  
64 contact the Labor Commissioner at least ten days prior to the date such  
65 contract will be advertised for bid, to ascertain the standard rate of  
66 wages and shall include the standard rate of wages on an hourly basis  
67 for all classifications of employment in the proposal for the contract.  
68 The standard rate of wages on an hourly basis shall, at all times, be  
69 considered the minimum rate for the classification for which it was  
70 established.

71 (h) Each required employer subject to the provisions of this section  
72 shall (1) keep, maintain and preserve such records relating to the  
73 wages and hours worked by each employee and a schedule of the  
74 occupation or work classification at which each person is employed  
75 during each work day and week in such manner and form as the Labor  
76 Commissioner establishes to assure the proper payments due to such  
77 employees, and (2) [upon written request] on or before January first of  
78 each year, submit to the contracting state agent a certified payroll  
79 which shall consist of a complete copy of such records accompanied by  
80 a statement signed by the employer which indicates that (A) such

81 records are correct, (B) the rate of wages paid to each employee is not  
82 less than the standard rate of wages required by this section, (C) such  
83 employer has complied with the provisions of this section, and (D)  
84 such employer is aware that filing a certified payroll which it knows to  
85 be false is a class D felony for which such employer may be fined not  
86 more than five thousand dollars or imprisoned not more than five  
87 years, or both. Notwithstanding the provisions of section 1-210, as  
88 amended, the certified payroll shall be considered a public record and  
89 every person shall have the right to inspect and copy such record in  
90 accordance with the provisions of section 1-212. The provisions of  
91 subsections (a) and (b) of section 31-59, section 31-66 and section 31-69  
92 which are not inconsistent with the provisions of this section shall  
93 apply. Any person who files a false certified payroll in violation of  
94 subdivision (2) of this subsection shall be guilty of a class D felony for  
95 which such person may be fined not more than five thousand dollars  
96 or imprisoned not more than five years, or both.

97 [(i) This section shall not apply to contracts, agreements or grants  
98 which do not exceed forty-nine thousand nine hundred ninety-nine  
99 dollars per annum.]

100 [(j)] (i) On receipt of a complaint for nonpayment of the standard  
101 rate of wages, the Labor Commissioner, the Director of Wage and  
102 Workplace Standards and wage enforcement agents of the Labor  
103 Department shall have power to enter, during usual business hours,  
104 the place of business or employment of any employer to determine  
105 compliance with this section, and for such purpose may examine  
106 payroll and other records and interview employees, call hearings,  
107 administer oaths, take testimony under oath and take depositions in  
108 the manner provided by sections 52-148a to 52-148e, inclusive. The  
109 commissioner or the director, for such purpose, may issue subpoenas  
110 for the attendance of witnesses and the production of books and  
111 records. Any required employer, an officer or agent of such employer,  
112 or the officer or agent of any corporation, firm or partnership who  
113 wilfully fails to furnish time and wage records as required by law to  
114 the commissioner, the director or any wage enforcement agent upon

115 request or who refuses to admit the commissioner, the director or such  
116 agent to a place of employment or who hinders or delays the  
117 commissioner, the director or such agent in the performance of any  
118 duties in the enforcement of this section shall be fined not less than  
119 twenty-five dollars nor more than one hundred dollars, and each day  
120 of such failure to furnish time and wage records to the commissioner,  
121 the director or such agent shall constitute a separate offense, and each  
122 day of refusal of admittance, of hindering or of delaying the  
123 commissioner, the director or such agent shall constitute a separate  
124 offense.

125 [(k) Notwithstanding subsection (i) of this section, any]

126 (j) Any employer that pays the state for a franchise to provide food  
127 preparation or service, or both, for the state shall be required to certify  
128 that the wages and benefits paid to its employees are not less than the  
129 standard rate established pursuant to this section.

130 [(l)] (k) The Labor Commissioner may adopt regulations, in  
131 accordance with chapter 54, to carry out the provisions of this section.

132 [(m)] (l) The provisions of this section and any regulation adopted  
133 pursuant to subsection [(l)] (k) of this section shall not apply to any  
134 contract or agreement entered into before July 1, 2000.

135 (m) On and after the effective date of this section, any contract for  
136 the provision of goods or services between a required employer and  
137 the state shall provide that: (1) If the delivery of the goods or services  
138 owed under such contract is delayed by not less than one-half of a day  
139 as a direct result of a service interruption, such required employer  
140 shall pay a penalty of five per cent of the annual amount of such  
141 contract for each day or one-half of a day that delivery in full is  
142 delayed; and (2) if the goods and services delivered under such  
143 contract are not of the quality promised by the required employer  
144 under such contract and such deficiency is a direct result of a service  
145 interruption, such required employer shall pay a penalty of two per  
146 cent of the annual amount of such contract for each day or one-half of

147    a day that such deficiency exists.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>July 1, 2006</i>	31-57f
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**GAE**        *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Dept. of Administrative Services; Various State Agencies	All Funds - Cost	Significant	Significant
Dept. of Administrative Services; Various State Agencies	All Funds - Revenue Gain	Potential Indeterminate	Potential Indeterminate

**Municipal Impact:** None

#### **Explanation**

The bill eliminates the \$49,999 contract threshold that triggers the standard wage law, thus making the standard wage law applicable to certain service contracts<sup>1</sup> of any dollar amount. The labor commissioner establishes the standard rate of wages for service contract employees. This hourly rate plus a 30% surcharge to cover the cost of any health and retirement benefits is the minimum service workers must be paid. Extending the standard wage law to all service contracts will significantly increase future service contract costs to the state.

The Department of Administrative Services (DAS) handles the awarding of service contracts for the majority of executive branch agencies. DAS currently oversees approximately 200 active statewide service contracts under \$50,000 with a total contract value of \$4.4 million (over the term of the contracts). Additionally, various state agencies contract for services under \$50,000 independently; the total number and value of these contracts cannot be determined at this time.

Under the bill, all employees working for businesses that have

<sup>1</sup> For example: trash hauling, laundry, dry cleaning, pest control, janitorial, landscaping, and building maintenance.

service contracts with the state would have to be paid at least the standard wage rate, plus the 30% benefit surcharge. To the extent that vendors would have to increase employee wages and benefits to the standard wage rate, those costs would most likely be passed on to the state in the form of higher future service contract costs. This will significantly increase the costs to the state to contract out these services.

The bill imposes penalties on required employers for service interruptions that result in delays in the delivery of goods and services, and on goods and services that are not of the contractually-required quality. The penalty for a service interruption is 5% of the annual contract amount for each day or half-day that delivery is delayed. The penalty for goods and services that are not of the contractually-required quality is 2% of the annual contract amount for each day or half-day the quality deficiency exists.

This provision of the bill may result in an indeterminate revenue gain to the state if there are service interruptions or quality deficiencies. This revenue gain will be offset to some extent if the state has to contract another vendor to provide the services that were disrupted or not of the contractually-required quality.

Under the bill, required employers must submit a certified payroll to the contracting state agency each year. This provision has no fiscal impact on the state.

### ***The Out Years***

Costs to the state would increase in future years as current service contracts under \$50,000 expire (most are 3 year contracts) and must be put out for bid subject to the standard wage rate.



**OLR Bill Analysis****sSB 402*****AN ACT CONCERNING CERTAIN SERVICE INTERRUPTIONS.*****SUMMARY:**

This bill eliminates the \$49,999 contract threshold that triggers the standard wage law, thus making the law applicable to a contract of any dollar amount. Standard wage law requires businesses that contract with the state or its agent to provide building, food, property, or equipment services or maintenance ("required employers") to pay their employees at least the standard wage rate as determined by the labor commissioner.

The bill imposes penalties on required employers for service interruptions that result in (1) delays in the delivery of goods and services or (2) goods and services that are not of the promised quality. Under the bill, a "service interruption" is an interruption of goods or services provided by a required employer or subcontractor that affects the employees engaged in the performance of work on the goods and services. It does not include interruptions caused by fire, flood, or unpreventable events caused exclusively by forces of nature.

Under the bill, required employers must submit annual certified payrolls to the contracting state agencies. They currently submit certified payrolls upon request.

EFFECTIVE DATE: July 1, 2006

**PENALTIES FOR SERVICE INTERRUPTIONS**

The bill requires contracts between the state and required employers to include penalties of (1) 5% or (2) 2% of the annual contract amount for each calendar day or half-day that goods and services are not (1) delivered in full or (2) of the contractually-required quality,

respectively, as a direct result of a service interruption.

## **CERTIFIED PAYROLLS**

Under the bill, required employers must submit a certified payroll to the contracting state agency by January 1 of each year. By law, certified payrolls must include a statement signed by the employer indicating the: (1) records are correct; (2) wage rate paid to each employee is at least the standard wage rate; (3) employer has complied with the standard wage rate law; and (4) employer is aware that knowingly filing a false certified payroll is a class D felony. A class D felony carries a fine of up to \$5,000, up to five years imprisonment, or both.

## **BACKGROUND**

### ***Standard Wage Law***

Under this law, the Labor Department sets the hourly rate for all job classes based on those identified in the Federal Register of Wage Determinations under the Federal Service Contract Act, plus a 30% surcharge to represent the cost of health and retirement benefits.

The law also (1) prescribes how contracting agents inform potential bidders of standard wage rates to be met in preparing a contract proposal and (2) authorizes the department to investigate complaints and enforce the law, among other things.

### ***Related Bill***

HB 5031, favorably reported by the Labor and Public Employees Committee, eliminates the \$49,999 contract threshold that triggers the standard wage law.

## **COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 5 (03/17/2006)